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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,740	02/09/2004	Edward C. Adair	A6	1518

7590 12/15/2005  
Robert O. Wright  
42 Boston Lane  
Palm Coast, FL 32137

EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,740	<b>Applicant(s)</b> ADAIR, EDWARD C.	
	<b>Examiner</b> Anne Marie M. Boehler	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-14 is/are pending in the application.  
4a) Of the above claim(s) 4-7, 12 and 13 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 8, 11 and 14 is/are allowed.
- 6) ☒ Claim(s) 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 4-7, 12, and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 19, 2005.
2. Claim 11 is objected to because of the following informalities: In line 1, "10" must be deleted. Appropriate correction is required.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith (USPN 5,580,088) in view of Szczypski (USPN 6,068,281).

Griffith discloses a trailer hitch apparatus comprising all elements as claimed, including a hollow tubular hitch receiver member (31) pivotally mounted on the rear of a towing vehicle for left to right movement of substantially one hundred eighty degrees; a ball mount member (17, 19) telescopically mounted (see Fig. 2) in said tubular hitch receiver having a length greater than the hitch receiver and carrying on the rearward end thereof a hitch ball (25); said ball mount member having on the forward end index engaging means (groove 18), as broadly recited. Rather than a standard set of holes in the hitch receiver and ball mount member, Griffith teaches a pawl and ratchet rack

assembly to hold the hitch receiving member and ball mount member in solid engagement.

Szczypski discloses that it is known in the art to provide a hitch receiving member and ball mount with a set of holes to lock the two elements in fixed position when the sets of holes are in alignment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the hitch receiving member and ball mount member of Griffith with a set of holes as taught by Szczypski in order to provide a strong and secure connection between the two elements to ensure that they will remain locked together when necessary. Note that the claim language regarding the functional limitation of engaging towing index means or stowing index means to be held in towing or storage condition does not serve to define over the art in that these elements are not positively recited. The examiner's assertion that these elements are not positively recited in claim 9 is supported by applicant's own claim 109, which reads "the apparatus as claimed in claim 9 further including towing index means and stowing index means...."

5. Claims 1-3, 8, 11, and 14 are allowed.
6. Applicant's arguments filed September 14, 2005 have been fully considered but they are not persuasive.

Applicant argues that the indexing engaging means of Griffith lacks the dual function of engaging both towing and storage index means. However, as pointed out in the earlier office action, indexing means are not positively recited in claim 9. Also, the

index engaging means of Griffith is capable of being used in both the towing position, as seen in Figure 1, and in a storage position, as shown in Figure 6. Therefore, the broadly and functionally claimed structure is met by Griffith.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anne Marie M. Boehler  
Primary Examiner  
Art Unit 3611

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